

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:23CR86
Plaintiff,)	
)	
v.)	MOTION TO
)	DISMISS THE SECOND
)	SUPERSEDING INDICTMENT
RICHARD WESLEY MARSHALL,)	AND REQUEST FOR HEARING
Defendant.)	

COMES NOW, the defendant, by and through counsel, Jerry M. Hug and moves pursuant to Federal Rule of Criminal Procedure 12(b)(3) this Court for an Order dismissing the second superseding indictment against the defendant. In support of this Motion counsel states as follows:

1. Marshall is charged in Count I of the second superseding indictment in a conspiracy to possess and possess with intent to distribute more than 1,000 kilograms of marijuana beginning on or about January 1, 2000 and lasting through August 31, 2021. There are a total of eleven other individuals currently charged in the same overall conspiracy count.
2. Count I of the indictment alleges multiple conspiracies as opposed to one overall conspiracy between the codefendants. At best, the government may be able to show a separate discreet conspiracy between Marshall and certain named and unnamed co-conspirators for a limited period of time involving the states of California and Maryland. As such, there is no nexus to the District of Nebraska and venue is improper in this District. Thus, there is a defect in the indictment as count I is duplicitous, defective and fails to establish venue in this jurisdiction in relation to the defendant.

3. Counts II and III allege that the same defendants named in count I engaged in money laundering for the purposes of concealing income derived from the conspiracy and a conspiracy to avoid reporting said income. As such, count II and III cannot be properly charged in this jurisdiction where there is a separate discreet conspiracy involving the defendant which lacks venue in the District of Nebraska.
4. Regardless of the existence of a single or multiple conspiracy, counts II and III of the second superseding indictment are duplicitous, defective and fail to establish venue in the District of Nebraska and must be dismissed.
5. Lack of venue for each count of the indictment violates Marshall's rights under Art. III §2 of the Constitution of the United States as well as the Fifth and Sixth Amendments to the Constitution of the United States and FRCrP 18.

WHEREFORE, the defendant requests a hearing on this matter and an Order dismissing the indictment against the defendant Richard W. Marshall.

RICHARD WESLEY MARSHALL, Defendant.

BY: s/ Jerry M. Hug

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of June, 2024 the above Motion to Continue was filed via the ECF system in the United States District Court for the District of Nebraska and that system sent electronic notice to: Thomas Kangior, AUSA.

/s Jerry M. Hug